

**NELSON COUNTY PLANNING COMMISSION**  
**MEETING MINUTES**  
January 22, 2014

**Present:** Chair Proulx, Commissioners Linda Russell and Michael Harman

**Absent:** Mary Kathryn Allen and Emily Hunt

**Staff Present:** Tim Padalino, Director of Planning & Zoning, and Stormy Hopkins, Secretary

**Call to Order:** Chair Proulx called the meeting to order at 7:03 P. M. in the General District Courtroom, County Courthouse, Lovingson.

**Approval of meeting minutes:** The Commissioners requested the following revisions:

Page 1 – add **Stormy Hopkins, Secretary** to Staff Present.

Page 2 / 3<sup>rd</sup> paragraph: add the location of the “Rockfish” site (CV421): made change as follows:  
**Located at the Rockfish Fire Station on Rt. 151.**

Page 3 / last paragraph: change the spelling of sighting to **siting** (5<sup>th</sup> sentence); change “They” to “It” (5<sup>th</sup> sentence); change the spelling of sighting to **siting** (9<sup>th</sup> sentence).

Page 4 / last paragraph: change amendable to “**amenable**” (last sentence)

Page 4 / last paragraph beginning with Chair Proulx - rewrite paragraph as follows:  
**Applicant presented various propagation maps in support of their position. Chair Proulx requested maps detailing coverage from the Martin’s Store site and the Rockfish antennas in place.**

Page 5 / 1<sup>st</sup> paragraph: add the location of CV485 & CV421 sites: **CV485, located on Rockfish Valley Hwy at Martin’s Store and CV421 is located at the Rockfish Fire Station, located on Rt. 151.**

Page 5 / 2<sup>nd</sup> paragraph – last word: change the spelling of sighting to **siting**.

Page 5 / paragraph beginning Chair Proulx: change to read “**possible**” health issues.

Page 6 / item 8 (5<sup>th</sup> & 7<sup>th</sup> sentences): change site to **sight**.

**Commissioner Harman made a motion that the meeting minutes from December 18, 2013 be approved as amended; the vote was 3-0.**

**Election of Officers:** Chair Proulx postponed until the next meeting.

**1. Class III Tower Permit #2013-007 – Mrs. Cheryl Taylor / AT&T**

Chair Proulx stated that at 5:05 p.m. this afternoon, the Planning Commission received a letter from Mr. Lloyd, who represented AT&T at the previous meeting. The letter reads as follows:

*By this correspondence and on behalf of the Applicant, we respectfully request that this matter be deferred indefinitely from the agenda for the meeting of the Planning Commission on this day, January 22, 2014, pending our production of documentation requested by you and the Planning Commission members concerning the selection of this site, and the feasibility of alternatives.*

Chair Proulx continued, stating that the Commission had been under the impression that someone from AT&T would be present at the meeting, but that did not appear to be the case. Commissioner Harman added there needs to be a timeframe for the requested deferral, and that the application should not be deferred indefinitely. Mr. Padalino noted this has already been a lengthy application process with the initial application for the tower site being submitted in August 2013.

**Commissioner Russell made a motion that the Planning Commission grant the applicant's request for an indefinite deferral, with the requirement for the applicant to provide the County with a report on the status of the application within three months.**

**A second was offered by Commissioner Harman; the vote 3-0.**

**Special Use Permit #2013-006 / JARSS, Inc.**

Mr. Padalino stated an application was received on December 19, 2013 by Mr. Jaya Tiwari for consideration of a Special Use Permit for the proposed conversion of an office space to a residential space, pursuant to Section 8-1-10a of the Zoning Ordinance.

The subject property is identified as Tax Map Parcel #76A-2-2, located at 4148 Thomas Nelson Highway (U.S. Route 29) in Colleen. This is a 0.083-acre property zoned Business (B-1), and is owned by JARSS, Inc. Mr. Padalino stated that Mr. Tiwari has received a large volume of inquires from people seeking a rental lease for a residential apartment at that location. He also stated that during the Site Plan Review Committee meeting, the applicant explained that the private well serving the proposed apartment on the subject property was located on an adjacent property. The subject property has connection to the Service Authority sewer utilities, and would continue to use that utility for sewer services.

Mr. Padalino discussed the Site Plan Review Committee's concern about the Site Plan not including any information about parking. At the Site Plan Review Committee meeting, the applicant indicated there is enough space for two parking spaces on the property. It was discussed to have the parking spaces painted or to have bollards, curb stops, or other features to ensure the parking spaces are safely separated from the building. The Committee and applicant also discussed the possibility of placing some signage to have those parking spaces clearly reserved for the residential use and not for business use.

Mr. Padalino recommended that if those outstanding Site Plan details relating to parking and the location of the existing well are resolved, the proposed residential use would be acceptable. With the resolution of those details, the Planning Commission should consider recommending approval.

Commissioner Russell asked if there were any Health Department issues. Mr. Padalino stated no comments have been received from Mr. Eick. Mr. Padalino stated there is an existing bathroom in the facility. The proposed apartment would be an expansion from a half bath to a full bath.

Chair Proulx asked the applicant, Mr. Tiwari, if he had anything to add to what Mr. Padalino had stated. Mr. Tiwari said he had nothing further to add.

Commissioner Russell asked if the air machine could be moved. Mr. Tiwari stated it was a portable machine and could be moved anywhere. Chair Proulx asked if there was enough room for two parking spaces in regards to the cars coming from under the canopy by the gas pumps. Mr. Tiwari said there was enough room for both; and that he would be able to locate the spaces side-by-side or one behind the other. Commissioner Russell asked what the manhole in front of the apartment was used for. Mr. Tiwari stated it was used to fill the holding tanks. Chair Proulx asked where the well was located. Mr. Tiwari said he thought it was located inside the kitchen in the building.

Chair Proulx opened the public hearing at 7:24 p.m. for comments; no comments were made, and the public hearing was closed.

Commissioner Russell stated she had a great deal of concerns about the use. It is a business zone that pumps gasoline, with fumes from cars that park there. She stated that she does not personally feel this is a compatible use in a business district, and cannot support this Special Use Permit application. It is designed for business use and not residential. Chair Proulx stated water was her biggest concern and does not like having the water source on a different parcel.

**Commissioner Russell stated with respect to application #2013-006 by JARSS Inc. for a Special Use Permit in order to place an apartment in a B-1 District, recommends the Board of Supervisors deny this application because a residential use is incompatible with the surrounding business district.**

**A second was offered by Commissioner Harman; the vote 3-0.**

Chair Proulx stated the Special Use Permit will go to the Board of Supervisors on the February 11, 2014 meeting.

**Final Plat for Elk Rock Meadow Subdivision (previously Elk Rock Orchard Subdivision) / Roger W. Ray & Associates, Inc.**

Mr. Padalino stated the preliminary plat for this subdivision was approved in December 2012. Six months after that approval, the applicant then requested and received a six month extension for the submission of the final plat. That extension was granted, and the applicant submitted the final plat prior to the end of that extension.

Mr. Padalino stated that the subject property is identified as Tax Map Parcels #2-A-1C and 3-A-82C and 3-A-82D, located on Howardsville Turnpike (Route 610) in Afton. This is an 80.8-acre site zoned Agricultural (A-1), and is owned by Elk Mountain Land Company, LLC.

Mr. Padalino explained that the materials were reviewed during the January 8, 2014 Site Plan Review Committee meeting. He noted that the Thomas Jefferson Soil & Water Conservation district had already approved the Erosion & Soil Control Plan (E&S) in December 2013. Similarly, the Health Department had previously approved the proposed subdivision pertaining to its requirements, as part of the review of the preliminary plat. Committee members identified a small number of minor issues, all of which were incorporated into the applicant's resubmitted final plats. Mr. Padalino identified two addendum items that had been submitted:

1. The road plan and profile drawings
2. An approved request for an exception (to §4-5) to utilize an off-site dry hydrant, which was approved by the Board of Supervisors on December 19, 2012

Mr. Padalino stated that in consideration of the plat being in conformance with the Subdivision Ordinance and Zoning Ordinance, County staff recommends that the Planning Commission consider approving this proposed Final Plat for Elk Rock Meadow Subdivision.

Commissioner Russell said there were two key issues to be addressed; evidence of a dedicated access to a dry hydrant and a copy of the covenants in regards to the buffer of trees because of the relation to the Blue Ridge Parkway.

Mr. Michael Boggs of Hayley, Chisholm & Morris, Inc. and Mr. Brian Ray of Roger W. Ray & Associates, representing the owner, addressed the Planning Commission. Mr. Boggs stated that in regards to the tree buffer, there is a several hundred foot wide buffer (with some areas being greater) that separate this property and the Blue Ridge Parkway as it sits. The owners do plan to control any clearing on any of the wooded lots of trees that are six inches diameter breast high (DBH) and larger, which would have to require ARB

approval. Mr. Boggs also stated that a one-hundred foot (100') setback has been added along all the border of the Blue Ridge Parkway, which far exceeds the County's required setback. He added that a courtesy copy of the CCNR will be provided once they are drafted. In regards to the dry hydrant, Mr. Boggs stated that it is owned by an entity and controlled by Mr. Phil Delaney. Mr. Boggs said that Tommy Harvey assured them that they do not need any special permission; state law allows a fire department to go in on any property at any time for emergency access.

**Commissioner Russell stated that on the application for the Elk Rock Meadow Subdivision, the Planning Commission approves the final plat of four pages dated December 17, 2013 and revised January 13, 2014, with one condition that a maintenance agreement be filed with the County as requested by Ms. Sappington to ensure stormwater ponds and level spreaders.**

**A second was offered by Commissioner Harman; the vote 3-0.**

**Major Site Plan #2013-008 – Walker Mill Dam Rehabilitation / Asilea Resources, LLC**

Mr. Padalino stated an application was received on December 30, 2013, submitted by Mr. Massie Saunders, on behalf of the property owner and project developer, Asilea Resources, LLC. This Major Site Plan application is for a proposed by-right land use pursuant to Article 4-1-11. The subject property is located in Schuyler on Tax Map Parcel #62-A-15E. The street address is 2355 Salem Road. The project is on a 2.11-acre tract of a 4.6-acre property. It was rezoned from Residential (R-1) to Agricultural (A-1), and the property also contains the General Floodplain Overlay District (FP).

Mr. Padalino noted that the proposal is to establish a new hydro-electric generating facility on the property. The Site Plan Review Committee meeting was held on January 8, 2014; there were several items that were noted during that meeting that were included in the Staff Report, with the most pertinent items as follows:

(O): This requires information about walls. The drawings include two retaining walls; however, the applicant assured that the design of the walls (including the engineering and materials) will be addressed when a sub-contractor designs those features during the development of the building plans (which will occur as part of the forthcoming Building Permit application).

(R): Utilities - The drawings include existing utilities but do not depict proposed transmission lines. As a power generating site, this project will include the installation of transmission lines; however, the applicant noted that they are still negotiating with two utility companies but have yet to finalize their power distribution plans. As such, the design of the dam's transmission lines cannot be shown at this time.

(U): Landscape plan - The drawings do not include any information on landscaping. Landscaping would likely be limited to turfgrass in limited areas. The "limits of disturbance" on Sheet 3.0 indicate that some existing vegetated areas will remain undisturbed.

(T): Signage - The drawings show a sign on the southern side of the entrance. There is a note on there that states that, "*Proposed sign shall be less than fifty square feet in area and meet all requirements of the Nelson County sign regulations. Signage shall comply with the Permitted Signs as identified in Table 4 in the Zoning Ordinance.*" The applicant provided a mockup of the proposed sign, with dimensions of up to five feet wide and up to 4 feet tall, which will be substantially less than the maximum allowable size. This was submitted directly by Mr. Frederic Reveiz on behalf of the property owner, Asilea Resources, LLC.

(V): Lighting – The drawings do not specify the location or type of lights. The applicant noted that this would be depicted in detail on the building plans during the forthcoming Building Permit application process. The applicant indicated that the actual dam building would need to remain lighted at all times for security purposes. In regards to the lighting for the proposed entrance sign, the

applicant noted that it would probably be “very simple ground-mounted lights shining up onto the sign. There is a Site Note 2 on Sheet C3.0, noting that, *“Future lighting shall comply with §12-7-8K of the Nelson County Zoning Ordinance. A plan shall be provided to the County for review and approval prior to the construction of any on-site lighting.”*

Mr. Padalino stated that separate from the Site Plan checklist, the applicant is also in the process of obtaining a “Joint Permit.” That is a state permit issued jointly by the Virginia Dept. of Environmental Quality, the U.S. Army Corps of Engineers, and the Virginia Marine Resources Commission (MRC), which regulates construction within a waterway. He also said that Mr. Vinny Pero of the Corps of Engineers indicated that the project’s outstanding need to obtain a Joint Permit does not hinder any construction activity in the “uplands” area of the project site (outside of the waterway).

Mr. Padalino stated in considering this proposed rehabilitation and reuse of the existing dam, it’s an appropriate by-right use and County staff recommends that the Planning Commission consider approving this proposed Major Site Plan.

Commissioner Russell made note to item (N) – “plans and elevations for main and accessory buildings.” Mr. Padalino stated there had been a couple of conceptual drawings that had been submitted, and they this would be addressed in more detail during the Building Permit process.

Commissioner Russell asked about an E&S Plan (Erosion & Sediment). Mr. Padalino said that he did not have direct contact with Alyson Sappington on this issue; but that she did provide an email to him and to the applicant with her comments on January 21, 2014. That email reads as follows:

Massie, this email is to confirm our phone discussion in regards to the E&S Plan for the Walker Mill Dam Rehabilitation project. Please clarify the work plan for what is called the “proposed canal” and for the clean-up of the intake area. For both of these areas, ensure that construction equipment access is addressed and confirm intentions to secure necessary permits from the USACE. Please also note “waste areas” for the materials that will be removed. Beyond that issue, the E&S Control Plan appears adequate and meets necessary criteria.

Commissioner Russell asked about the Service Authority and Mr. Padalino stated he had not received any comments.

Mr. Padalino made note that written comments were received from Mr. Vance Wilkins, which are kept with the application file for future reference. He said he spoke with Mr. Wilkins and his main concern seemed to be that there is an easement for a pipeline for the withdrawal of water from the existing dam. Mr. Padalino stated that he’s since learned that the applicant is currently working with Alberene Soapstone to address and resolve the issues described in Mr. Wilkins comments.

Commissioner Harman asked if the height of the dam was an issue. Mr. Padalino stated he does not believe that to be an issue.

Massie Saunders addressed the Planning Commission and stated the height of the dam would not be changed. The dam will remain the same. He said that Mr. Padalino had been given a conceptual drawing that shows the elevation view of the approximate height of the structure, which he noted, is all contingent on the size of the parts that have to go inside that structure. Mr. Saunders said that essentially what’s going to be built there is a “bomb shell” so that when there is a high water event, the hatch will be closed and locked down, the generators will be shut off, and the water will go over top of it; when the water subsides, the facility will return to normal operating procedures.

Commissioner Harman asked Mr. Saunders if he could address the noise level that Mr. Wilkins is concerned about. Mr. Saunders indicated that all the working parts would be inside the structure and doesn't imagine there being a great deal of noise; no more than what's heard when the water goes over the dam.

Mr. Saunders indicated that he has exchanged emails with Mr. Vinny Pero of the Corps of Engineers within the last 24-hours; and that he is still awaiting final approval of the joint permit. Mr. Saunders clarified that the joint permit is between the Corps of Engineers and the Virginia Marine Resources Commission; and that Virginia DEQ is not initially involved in the review of this joint permit, but they may be involved later.

Chair Proulx asked where the generators were located and if they were enclosed when John Pollock ran the operation. Mr. Massie stated that prior to Mr. Pollock starting, the generators were in an enclosed structure but those were washed away during the 1969 flood. Afterwards, Mr. Pollock did not rebuild the structures but built temporary lean-tos against the dam. He only had one or two of the turbines working at the time. Mr. Reveiz plans to only use two of the three turbines.

Mr. Massie also addressed another one of Mr. Wilkins comments about the water intake. He stated that he's met with one of the General Managers of Alberene Stone and they are actually letting the property owners pull power out of their existing pump system. He noted that Alberene is also working with the hydro project team to shut that down periodically so additional clean up can be done. He also stated that they remain in contact, and are in talks about integrating Alberene's intakes into the powerhouse facility so that it is protected in high water events.

**Commissioner Russell made a motion for the Planning Commission to approve the plan by Hurt & Proffitt for the rehabilitation of Walkers Mill Dam, Major Site Plan #2013-008; dated January 14, 2014. It is subject to future submittal as part of the building approval process by the Planning & Zoning Director's Major Site Plan Checklist items #N; #O; #R; #T; #U; and #V.**

**A second was offered by Commissioner Harman; the vote 3-0.**

#### **Other Business:**

**a. Farmers Markets, Farm Stands, and Farm-to-Table issues:**

Mr. Padalino stated that he does not have anything for the Planning Commission to review at this time. He did state that he's been looking at some of the State proposals and in particular the House Bills. There is one controversial House Bill that has to do with "farm brewery" operations; which would establish similar zoning exemptions for breweries as what has been established for wineries and vineyards through the Farm Winery legislation. He's asked the County's TJPDC Legislative Liaison to keep him apprised, and noted that it's very important for Nelson to be proactively engaged with legislative action in Richmond that would affect local land use regulations for brewery uses.

Chair Proulx stated this would be left on the agenda for future discussion.

**b. BOS Referral (1/14/2014) of Proposed Amendments to Subdivision Ordinance and Zoning Ordinance (relating to anticipated adoption of Stormwater Management Ordinance):**

Mr. Padalino stated that during the last Board of Supervisors meeting on January 14, the Board referred the proposed amendments to the Planning Commission. Essentially, it's to make sure the Stormwater Management Ordinance would be consistent with the Subdivision and Zoning Ordinances.

**c. Policy Review: "Plats exempt from PC Review" (Subdivision Ord. §3-2-A):**

Mr. Padalino stated there is a lack of clarity about policy and procedure for plats exempt from PC review and approval, such as proposed divisions of 11 or less lots; family divisions; or boundary line adjustments. He stated that staff have identified deficiencies in that the Subdivision Ordinance does not contain clear review criteria for such "exempt plats." This needs further discussion.

**d. Policy Review: “Lots Allowed Chart” Interpretation/Administration (Zoning Ord. §4-2-1):**

Mr. Padalino stated this is an ongoing project. There has been discussion as to how that chart should be applied. He stated that some of the big questions are if the chart applies to parcels as they exist prior to any proposed reconfiguration, or after, or perhaps both. If the chart were applied to parcels both prior to their proposed reconfiguration as well as after any proposed adjustment, that interpretation would limit the possibility of “migrating” the remaining lots allowed between contiguous parcels. The question is if migration of remaining lots allowed is okay, as long as you don’t exceed the cumulative total number of lots allowed as calculated pre-adjustment; or if the adjusted parcels are meant to be restricted by the chart. Mr. Padalino stated that based on numerous meetings, all signs seem to point to the interpretation being as restrictive as possible.

**e. Policy Update: “Tower Ordinance” Repeal and Replacement (BOS meeting on the 23rd):**

Mr. Padalino stated the Board of Supervisors is scheduled to have a public hearing on January 23, 2014 in the General District Courtroom on this matter.

Mr. Saunders asked how the total of 16 lots was figured for the subdivision plat that was just approved (in reference to Elk Rock Meadow Subdivision final plat). Mr. Padalino stated the calculation and assignment of lots allowed was based on the cumulative total for three contiguous parcels of record, and that those numbers were identified prior to reconfiguration as specified by §4-2-1. Mr. Padalino further noted that the preliminary plat of division for Elk Rock Meadow was approved in December 2012. Chair Proulx stated the County cannot go back and rescind its approval.

**Adjournment:**

At 8:30 P.M. Commissioner Harman made a motion to adjourn.

Respectfully submitted,



Stormy V. Hopkins  
Secretary

